BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
Chairman
JAMES M. IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

IN THE MATTER OF INVESTIGATION INTO U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH CERTAIN WHOLESALE PRICING REQUIREMENTS FOR UNBUNDLED NETWORK ELEMENTS AND RESALE DISCOUNTS	DOCKET NO. T-00000A-00-0194 RECOMMENDATION FOR PHASES AND CORRESPONDING ISSUES OF AT&T, TCG PHOENIX, MCI WORLDCOM AND SPRINT

AT&T Communications of the Mountain States, Inc. and TCG Phoenix, MCI WorldCom, Inc., on behalf of its regulated subsidiaries, and Sprint Communications Company, L.P. ("Joint Commentors") hereby file their list of issues that should be addressed in subsequent phases of this proceeding.

I. INTRODUCTION

This proceeding was initiated to examine issues raised as a result of the United States Supreme Court decision in *AT&T v. Iowa Utils. Bd.*, 119 S.Ct. 721 (1999); the District Court's decision in *U S WEST v. Jennings*, 46 F. Supp.2d. 1004 (D.Ariz. 1999); the Federal Communications Commission's ("FCC") orders requiring geographic deaveraging of wholesale rates; the FCC's line sharing order; the FCC's order on remand of the Supreme Court's decision in *AT&T v. Iowa Utils. Bd.*; and the FCC's order on advanced services. A number of parties supported Staff's motion, and in their responses recommended that the proceeding address additional cost issues.

On March 30, 2000, the Chief Hearing Officer issued a Procedural Order. The Procedural Order established at least two phases. The first phase will address the geographic deaveraging of wholesale rates on an interim basis. The Procedural Order further ordered "that all parties shall file on or before 4:00 P.M. on April 21, 2000, recommendations for additional phases and the corresponding issues along with any deadlines that need to be met as a result of a specific legal requirement." Procedural Order at 3.

II. COMMENTS

A. United States Supreme Court Decision

The United States Supreme Court upheld the FCC's authority to implement rules to carry out the provisions of Sections 251 and 252. *Iowa Utils Bd.* at 730. The Supreme Court, therefore, upheld the FCC's jurisdiction to adopt pricing rules. *Id.* at 733. The Supreme Court also upheld the FCC's Rule 315(b) that prohibits incumbent local exchange carriers ("ILECs") from separating network elements.

On remand, the Eighth Circuit Court of Appeals is reviewing the merits of the FCC's pricing rules. The Eighth Circuit is also reviewing whether the Supreme Court's rationale for upholding Rule 315(b) applies to Rule 315 (c)-(f), which were overturned by the Eighth Circuit and not specifically addressed by the Supreme Court. Rule 315 (c)-(f) require ILECs to combine network elements that are not presently combined on behalf of competitive local exchange carriers ("CLECs").

Although the Eighth Circuit has not issued a decision, the Ninth Circuit Court of Appeals recently issued an opinion in an appeal of an arbitration decision rendered by the

District Court of Washington in the MCI WorldCom, Inc. ("MCI") arbitration with U S WEST Communications, Inc. ("U S WEST"). The MCI/U S WEST arbitration agreement contained a provision that prohibited U S WEST from separating already combined network elements, which at the time was mandated by Rule 315(b). The agreement also required U S WEST to combine otherwise separate network elements, which at the time was mandated by Rule 315(c)-(f).

The District Court struck the provision prohibiting U S WEST from separating network elements and the provision requiring U S WEST to combine network elements, based on the Eighth Circuit's decision invalidating Rule 315(b)-(f). *Iowa Utils. Bd. v. FCC*, 120 F. 3d. 753, 813 (8th Cir. 1997). By the time the Ninth Circuit rendered its decision in *MCI v. U S WEST,* the Supreme Court had reinstated Rule 315(b). *Iowa Utils. Bd.* at 737. The Ninth Circuit reversed the District Court decision to strike the provision that was based on Rule 315(b) and prohibited U S WEST from separating network elements. *MCI v. U S WEST*, 204 F. 3d. 1262, 1268 (9th Cir. 2000).

The Ninth Circuit also reversed the District Court's decision to strike from the interconnection agreement the provision requiring U S WEST to combine network elements. The Ninth Circuit held that the Supreme Court's holding concerning Rule 315(b) confirmed that the Eighth Circuit's rationale for invalidating Rule 315(c)-(f) was incorrect. The Ninth Circuit concluded that the Supreme Court's interpretation of the Act made it "absolutely clear" that a provision requiring U S WEST to combine network elements does not violate the Act. *Id.*

Therefore, this Commission must establish cost-based recurring and nonrecurring charges for purchasing combined network elements. The Commission must also

establish appropriate charges for obtaining separate network elements and combining them, whether the combining is performed by U S WEST at the request of the CLEC or the CLEC elects to combine the elements itself.

B. U S WEST v. Jennings

On May 5, 1999, Judge Panner of the U. S. District Court issued an order in *U S WEST v. Jennings*. The order granted, dismissed or remanded claims raised in the Arizona Section 252(e)(6) appeal. A number of parties have appealed a number of Judge Panner's rulings to the Ninth Circuit. After reviewing the order, the issues raised on appeal, and eliminating any non-cost issues, it appears to the Joint Commentors that only two issues are before the Commission for consideration -- the customer transfer charge and the resale discount.

C. The FCC Orders

The FCC has issued a number of orders since the Commission last set wholesale rates. On March 31, 1999, the FCC released its *Advanced Services Order*.[1] On November 5, 1999, the FCC released its order on remand of the Supreme Court's decision in *AT&T v. Iowa Utils Board*.[2] On December 9, 1999, the FCC released its *Line Sharing Order*.[3]

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[1] *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, *First Report and Order*, FCC 99-48 (rel. March 31, 1999) ("*Advanced Services Order*").
[2] *Implementation of the Local Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Third Report and Order*, FCC 99-238 (rel. Nov. 5, 1999) ("*UNE Remand Order*").
[3] *Deployment of Wireline Service Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, *Third Report and Order; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Fourth Report and Order*, FCC 99-355 (rel. Dec. 9, 1999) ("*Line Sharing Order*").

1. *Advanced Services Order*

The *Advanced Services Order* imposes a number of additional collocation obligations on the ILECs.[4] The FCC found that "incumbent LECs must provide specific collocation arrangements, consistent with the rules we outline below [in *the Advanced Services Order*], at reasonable rates, terms and conditions as are set by the state commissions in conformity with the Act and our rules."[5] The FCC stated that the ILECs must provide shared collocation,[6] cageless collocation,[7] direct connection without the use of intermediate frames,[8] cannot impose unreasonable cageless collocation minimum space requirements,[9] must provide collocation space in single-bay increments,[10] provide collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible when space is exhausted in the central office,[11] may impose only reasonable security measures,[12] "must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocator in a particular incumbent premises will not be responsible for the entire cost of site preparation,"[13] must maintain a publicly available document indicating all premises that are full,[14] and must remove obsolete, unused equipment upon reasonable request of a competitor or a state

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[4] The FCC noted that the rules adopted in the *Advanced Services Order* focus on the provision of advanced services but apply to all telecommunications services, "whether traditional voice services or advanced services." *Advanced Services Order*, ¶¶ 18 and 23. The requirements contained in the *Advanced Services Order* and recently vacated by the District of Columbia circuit Court of Appeals, are not discussed in this pleading. *GTE v. FCC*, slip. op. 99-1176 (March 17, 2000).
[5] *Advanced Services Order*, ¶ 39.
[6] *Id.*, ¶ 41.
[7] *Id.*, ¶ 42.
[8] *Id.*
[9] *Id.*, ¶ 43.
[10] *Id.*
[11] *Id.*, ¶ 44.
[12] *Id.*, ¶¶ 47-49.
[13] *Id.*, ¶ 51.
[14] *Id.*, ¶¶ 58-59. ILECs cannot require CLECs to submit a written request and application fee before discovering if space is available.

commission.[15] Some or all of these requirements may raise cost issues that will have to be addressed in the cost proceeding.

2. *UNE Remand Order*

The *UNE Remand Order* was released November 5, 1999. It was published in the *Federal Register* on January 18, 2000. The rules promulgated by the *UNE Remand Order*, 47 C.F.R. § 51.319, became effective 30 days after publication in the *Federal Register*, except the subparts requiring access on an unbundled basis to: dark fiber, subloops and inside wire, packet switching, dark fiber transport, Calling Name Database, 911 Database, E911 Database, and loop qualification information, which become effective 120 days from publication in the *Federal Register,* or May 17, 2000.

Generally, the costs of all the network elements identified in Rule 319 must be reviewed, whether the Rule reestablished an unbundling obligation contained in the FCC's *Local Competition Order*[16] or established a new unbundling obligation. There are a number of reasons to review the costs of all network elements: one, the Commission needs to verify that the original costs were established consistent with the FCC's pricing rules; two, the rates for wholesale rates must be geographically deaveraged on a permanent basis and interim rates trued-up, and it makes sense to establish deaveraged permanent rates based on updated cost estimates; three, U S WEST has sold a substantial number of exchanges to Citizens Utilities, which affects the underlying costs in U S WEST's cost studies; fourth, U S WEST will be required to prepare cost studies for newly-required network elements, and the costs and inputs used to build the cost studies

[15] *Id.*, ¶ 60.
[16] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *First Report and Order*, FCC 96-325 (rel. Aug. 8, 1996) ("*Local Competition Order*").

should be consistent between *all* cost studies; and, fifth, the costs studies generally may be based on old data or information.

a. Loop

The FCC "modif[ied] the definition of the loop network element to include all features, functions, and capabilities of the transmission facilities, including dark fiber and attached electronics (except those used for the provision of advanced services, such as DSLAMs) owned by the incumbent LEC, between an incumbent LEC's central office and the loop demarcation point at the customer's premises."[17] The features functions and capabilities include line conditioning.[18] The FCC changed the definition of the loop, by identifying the end of the loop as being the demarcation point, not the network interface device. By doing so, inside wire is included as part of the loop to the extent it is in the control of U S WEST.[19] ILECs, must also provide cross-connect facilities between the CLECs equipment and the loop at cost-based rates.[20]

i. High-Capacity Loop

The FCC included high-capacity loops (for example, DS1 and DS3 loops) within the definition of the loop network element.[21]

ii. Subloops

The FCC also required ILECs to provide subloop unbundling at cost-based rates.[22] The FCC "define[d] subloops as portions of the loop that can be accessed at terminals in the incumbents outside plant."[23]

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[17] *Id.*, ¶¶ 167, 196-199.
[18] *Id.*, ¶¶ 167, 172, 191-195.
[19] *Id.*, ¶¶ 168-171.
[20] *Id.*, ¶ 178

> An accessible terminal is a point on the loop where technicians can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within. These would include a technically feasible point near the customer premises, such as the pole or pedestal, the NID (which we discuss below), or the minimum point of entry to the customer premises ("MPOE"). Another point of access would be the feeder distribution interface ("FDI"), which is where the trunk line, or "feeder," leading back to the central office, and the "distribution" plant, branching out to subscribers, meet, and "interface." The FDI might be located in the utility room in a multi-dwelling unit, in a remote terminal, or in a controlled environment vault ("CEV"). We acknowledge that some FDIs are more accessible than others; utility rooms are generally more spacious than vaults. A third point of access is, of course, the main distribution frame in the incumbent's central office.[24]

The ILEC is also required to provide a single point of interconnection at multi-unit premises at cost-based rates.[25]

All of these new obligations regarding the loop network element require a reassessment of existing rates and the establishment of new rates.

b. <u>Network Interface Device ("NID")</u>

The FCC changed the definition of the NID. The FCC modified the definition contained in the *Local Competition Order*, which defined the NID as a cross-connect device used to connect loop facilities to inside wiring. In the *UNE Remand Order*, the FCC changed the "definition of NID to include all features, functions, and capabilities of the facilities used to connect the loop distribution plant to the customer premises wiring, regardless of the particular design of the NID mechanism."[26] The FCC stated that the NID would "include any means of interconnection of customer premises wiring to the

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[21] *Id.*, ¶ 176.
[22] *Id.*, ¶¶ 205-210.
[23] *Id.*, ¶ 206.
[24] *Id.* (citations omitted).

incumbent LEC's distribution plant, such as a cross-connect device used for that purpose."[27] The FCC also held that the ILEC must permit a CLEC to connect its own loop to the inside wiring through the ILEC's NID,[28] and that CLECs no longer need to "install numerous, redundant NID at the interface to customer premises wiring..."[29]

Therefore, with the change in the definition of the NID, it is apparent that the Commission must revisit the correct cost of the NID to ensure the NID is cost-based consistent with the FCC's new definition of the NID.

c. Switching

i. Local Circuit Switching

The FCC did not change the definition of the local circuit switching network element contained in the *Local Competition Order*.[30] The FCC also confirmed that ILECs may not withhold access to switch routing tables.[31] However, the FCC did determine that CLECs are not impaired if the CLECs do not obtain access to the local switching network element in all cases. The FCC found that, "where incumbent LECs have provided nondiscriminatory, cost-based access to combinations of loop and transport unbundled network elements, known as the enhanced extend link ("EEL"), requesting carriers are not impaired without access to unbundled switching for end users

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[25] *Id.*, ¶ 226.
[26] *Id.*, ¶ 233.
[27] *Id.*
[28] *Id.*, ¶ 237.
[29] *Id.*, ¶ 238.
[30] *Id.*, ¶ 244.
[31] *Id.*, ¶ 252.

with four or more lines within density zone 1 in the top 50 metropolitan statistical areas (MSAs)."[32]

Although the definition of the local circuit switching network element has not changed,[33] U S WEST must make the EEL available in the Phoenix-Mesa MSA at cost-based rates.[34] Therefore, it will be necessary to establish rates for the EEL.

ii. Packet Switching

The FCC generally declined to unbundle packet switching. However, the FCC did make a limited exception. The FCC noted that there may be locations where the ILEC has deployed digital loop carrier (DLC) systems, and if no spare copper facilities are available, CLECs are "effectively precluded altogether from offering xDSL service if they do not have access to unbundled packet switching."[35]

> We find that in this limited situation, requesting carriers are impaired without access to unbundled packet switching. Accordingly, incumbent LECs must provide requesting carriers with access to unbundled packet switching in situations in which the incumbent has placed its DSLAM in the incumbents remote terminal, on the same terms and conditions that apply to its own DSLAM. Incumbents may not unreasonably limit the deployment of alternative technologies when requesting carriers seek to collocate their own DSLAMs in the remote terminal.[36]

Therefore, it is apparent that there may be situations where U S WEST may have to make packet switching available, and cost-based rates for packet switching must be established.

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[32] *Id.*, ¶ 253. *See* also *Id.*, ¶ 278. The Phoenix-Mesa Metropolitan Statistical Area ("MSA") is one of the top 50 MSAs. *See UNE Remand Order*, Appendix B.
[33] Although the definition has not changed, it will be necessary to review the local switching network element rate because of the sale of the high cost wire centers to Citizens Utilities.
[34] The EEL is comprised of an unbundled loop, multiplexing/concentrating equipment and dedicated transport. *Id.*, ¶ 477.
[35] *Id.*, ¶ 313.
[36] *Id.*

d. Transport

i. Dedicated Transport

The FCC reaffirmed its definition of dedicated transport that it established in the *Local Competition Order*.[37] However, the FCC did "modify the definition of dedicated transport to include dark fiber."[38] Therefore, it is necessary to establish cost-based rates for dark fiber dedicated transport.

ii. Shared Transport

The FCC reaffirmed the requirement that the ILECs provide shared transport consistent with its *Local Competition Third Reconsideration Order*.[39] U S WEST, in the past, has generally refused to provide shared transport at cost-based rates. To the extent U S WEST does not make shared transport available at cost-based rates, cost-based rates for shared transport must be established.

e. Signaling and Call-Related Databases

Generally, the FCC reaffirmed its definition of signaling networks and call-related databases.[40] However, the FCC did "clarify that the definition of call-related databases includes, but is not limited to, the calling name (CNAM) database, as well as the 911 and E911 databases. ILECs, in the past, have generally refused to make the CNAM available. Therefore, in addition to confirming that the existing rates for signaling and call-related databases are cost-based, it is necessary to establish cost-based rates for access to the CNAM database.

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[37] *Id.*, ¶ 323.
[38] *Id.*, ¶ 325.

f. Operations Support Systems

The FCC generally reaffirmed that ILECs must make their operations support systems available as a network element.[41] However, the FCC did "clarify that the preordering function includes access to loop qualification information."[42]

g. Operator Services and Directory Assistance

The FCC stated that the ILECs need not provide operator services and directory assistance ("OS/DA") *as network elements*, at cost-based rates, if the ILEC offers customized routing.[43] Therefore, if U S WEST does not elect to make OS/DA available as network elements, the Commission must determine just and reasonable rates for OS/DA offered under section 251(b) and must establish cost-based rates for customized routing.

h. Purchase of Loop/Transport Combinations and Conversion of Special Access Circuits

The FCC reviewed the issue of whether CLECs can convert special access circuits to a combination of cost-based network elements, specifically, loops and dedicated transport. The FCC held that "a requesting carrier is entitled to obtain existing combination of loop and transport between the end-user and the incumbent LECs serving wire center on an unrestricted basis at unbundled network element prices."[44] Interexchange carriers ("IXCs") may also use unbundled dedicated transport from their

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[39] *Id.*, ¶ 370. *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Third Order on Reconsideration*, FCC 97-295 (rel. Aug. 18, 1997).
[40] *UNE Remand Order*, ¶¶ 384 and 403.
[41] *Id.*, ¶¶ 425-426.
[42] *Id.*, ¶¶ 426-427.
[43] *Id.*, ¶¶ 441-442, and 473. *See* also, *Id.*, ¶ 462. *See Id.*, n. 867 for the definition of customized routing. ILECs must provide nondiscriminatory access to OS/DA under Section 251(b)(3).
[44] *Id.*, ¶ 486.

point of presence to a serving wire center in order to provide local telephone exchange service, and may also provide exchange access over the same facilities.[45]

The FCC subsequently issued a *Supplemental Order* that limited conversion of special access facilities to a combination of loop and transport network elements until it issues an order in response to its Fourth Further Notice of Proposed Rulemaking ("Fourth FNPRM"), which the FCC intends to issue on or before June 30, 2000.[46] IXCs may not convert special access services to combinations of unbundled loops and transport network elements solely to provide exchange access.[47]

> This constraint does not apply if an IXC uses combinations of unbundled loop and transport network elements to *provide a significant amount of local exchange service*, in addition to exchange access service, to a particular customer. It therefore does not affect the ability of competitive LECs to use combinations of loops and transport (referred to as the enhanced extended link) to provide local exchange service. It also does not affect the ability of competitive LECs that are collocated and have self-provided transport (or obtained it from third parties), but are purchasing unbundled loops, to provide exchange access service. As we stated in paragraph 487 of the *Third Report and Order and Fourth FNPRM*, such a competitive carrier is entitled to purchase unbundled loops in order to provide advanced services (*e.g.*, interstate special access xDSL service). Finally the constraint will have no effect on competitive LECs using long distance switches to provide local exchange service.[48]

IXCs may still use network elements in lieu of special access, and convert special access circuits to combinations of cost-based network elements, if they provide a significant amount of local exchange service. Furthermore, the condition for such conversion may be clarified in the FCC's subsequent order issued on or before June 3,

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[45] *Id.*, ¶ 488.
[46] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Supplemental Order*, FCC 99-370 (rel. Nov. 24, 1999), ¶ 4.
[47] *Id.*
[48] *Id.*, ¶ 5 (emphasis added).

2000. Therefore, it is necessary to set cost-based rates consistent with the FCC's *UNE Remand Order and Supplemental Order*, and the FCC's order in the response to the Fourth NPRM.

3. ***Line Sharing Order***

The FCC released its *Line Sharing Order* on December 9, 1999. The order is effective 30 days from publication in the *Federal Register*,[49] but the FCC concluded that ILECs should be able to provide line sharing within 180 days of the release of the order, or June 6, 2000.[50]

The FCC concluded "that access to the high frequency spectrum of a local loop meets the statutory definition of network element and satisfies the requirements of sections 251(d)(2) and (c)(3)."[51] The FCC "define[d] the high frequency spectrum network element to be the frequency range above the voice band on a copper loop facility used to carry analog circuit-switched voice band transmissions."[52] ILECs must also condition the loops to enable carriers to provide xDSL service on the same loops the ILEC is providing analog service.[53]

The FCC addressed a number of cost allocation and pricing issues and established guidelines to assist the states in applying the FCC's pricing rules to line sharing.[54] The FCC required that prices be based on forward-looking cost.[55] The FCC determined "that there are five types of direct costs that an incumbent LEC potentially could incur to

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[49] *Line Sharing Order*, ¶ 6.
[50] *Id.*, ¶¶ 13, 160-161. *See* also, ¶¶ 162-168 for a discussion of the state's role in implementing the FCC's order.
[51] *Id.*, ¶ 25.
[52] *Id.*, ¶ 26.
[53] *Id.*, ¶¶ 83 and 87.
[54] *Id.*, ¶¶ 131-157.
[55] *Id.*, ¶ 134 and 157.

provide access to line sharing: (1) loops; (2) OSS; (3) cross-connects; (4) splitters; and (5) line conditioning."[56]

i. Loop

In its discussion of the loop cost, the FCC noted that "[i]n setting prices for interstate xDSL services, moreover, incumbent LECs currently attribute little or no loop cost to those services."[57] The FCC determined that "states may require the incumbent LECs charge no more to competitive LECs for access to shared loops than the amount of the loop costs the incumbent LEC allocated to ADSL services when it established its interstate retail rates for these services."[58] The FCC found this reasonable because the ILECs filed interstate rates before the notice in the *Line Sharing Order* went out, and the ILECs "defended their cost support when challenged in petitions to reject or suspend their tariff filings."[59] The FCC determined this would result in the ILEC receiving its incremental cost of the high frequency portion of the loop and prevent double-recovery of loop costs.[60]

ii. OSS

The FCC recognized that the ILECs may have to modify their OSS to implement line sharing or may incur some costs to do so.[61] U S WEST stated in its comments in CC Docket No. 98-147 that its cost would range between $3.5 to $5.0 million.[62] Several

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[56] *Id.*, ¶ 136.
[57] Id., ¶ 133.
[58] *Id.*, ¶ 139.
[59] *Id.*, ¶ 140.
[60] *Id.*, ¶¶ 137 and 140.
[61] *Line Sharing Order*, ¶ 65.
[62] *Id.*, ¶ 143, n. 328. This was the lower end of U S WEST's estimate.

CLECs argued manual work arounds, would be sufficient to implement xDSL line sharing.[63]

The FCC determined that ILECs were entitled to "recover in their line sharing charges those reasonable incremental costs of OSS modification that are caused by the obligation to provide line sharing as an unbundled network element."[64]

> We believe that this guideline is consistent with the principle set forth in the *Local Competition First Report and Order* that incumbent LECs cannot recover nonrecurring costs twice. We also reaffirm the conclusions in the *Local Competition First Report and Order*, that the states may require incumbent LECs in an arbitrated agreement to recover such nonrecurring costs such as these incremental OSS modification costs through recurring charges over a reasonable period of time; and that nonrecurring charges must be imposed in an equitable manner among entrants.[65]

It appears that OSS modification costs should be minimal and, with the pricing methodology expressed by the FCC, the costs on a per-line basis should also be minimal.

iii. Cross Connects

The FCC recognized that a "[c]ross connection will be required to connect the competitive LEC's xDSL equipment to the incumbent LEC's facilities in order for the competitive LEC to be able to provide xDSL services via line sharing."[66] The FCC noted that the ILECs currently provide cross connects to interconnect loops with the CLECs' collocated facilities. The FCC stated that states are generally setting the rates for cross connects at total element long-run incremental cost ("TELRIC"), and established a presumption that the rate for the

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[63] *Id.* *See* n. 332 for a list of the CLECs.
[64] *Id.*, ¶ 144.
[65] *Id.*, (citations omitted).

line sharing cross connect would be the same as an interconnect cross connect for loops.[67]

iv. Splitter

The FCC noted that the ILEC must either provide the splitter or allow the CLEC to provide it. The FCC concluded that if the ILEC provides the splitter, the ILEC may not charge the CLECs any more than what the ILEC paid for it.[68] The Commission may also permit the ILECs to include a cost to install the splitter.[69]

v. Line Conditioning

The FCC also established pricing guidelines for loop conditioning, where necessary, for the provision of xDSL service.

> In order to prevent incumbent LECs from charging an excessive price for line conditioning, states may require that the conditioning charges for shared lines not exceed the charges the incumbent LECs are permitted to recover for similar conditioning of stand-alone loops for xDSL services. Furthermore, if the incumbent LEC is providing, or has already provided, xDSL service over a particular shared loop, a competitive LEC should not be charged with any line conditioning costs if it wins that customer and seeks access to that shared loop for providing xDSL service.[70]

The FCC requires state commissions to establish rates for line sharing based on TELRIC.

> We reject U S WEST's value-based pricing methodology. As we stated in the *Local Competition First Report and Order*, the price for unbundled network elements should be based on forward-looking costs. Setting the price for an unbundled network element based upon the competitive value that the facility confers upon another party does not conform with the TELRIC principles set

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[66] *Id.*, ¶ 145.
[67] *Id.*
[68] *Id.*, ¶ 146.
[69] *Id.*
[70] *Id.*, ¶ 148.

forth both in this Order and in the *Local Competition First Report and Order*.[71]

D. Statement of Generally Available Terms and Conditions

U S WEST's latest Statement of Generally Available Terms and Conditions, Second Revision, April 7, 2000 ("SGAT"), contains a number of rate elements that are under development. It also contains a number of rates for new network elements that have not been examined to verify that they are based on forward-looking costs. There are also a number of rates that are shown as "individual-case-basis," or ICB. To the extent generally available rates can be established, the Commission should do so.

Although Joint Commentors have not pointed out every cost and pricing issue raised by the SGAT, suffice to say that Exhibit A - Arizona Rates to the SGAT raises a significant number of cost and pricing issues. To the extent parties disagree with the rates in the SGAT, the parties should be free to raise the issue in this proceeding.

E. Reciprocal Compensation

The Commission has held that CLECs do not need to establish more than one point of interface ("POI") per LATA. However, U S WEST continues to undermine this ruling by insisting on charging CLECs non-cost-based private line rates if they wish to establish one POI per LATA. The Commission must order and establish cost-based rates for situations where a CLEC has only one POI per LATA.

U S WEST also insists on charging CLECs tandem transmission rates for CLEC calls terminated by the CLEC at a U S WEST host switch if the U S WEST customer is served by a remote. Since a host-remote configuration is essentially a loop extension

[71] *Id.*, ¶ 157.

technology, CLECs should not be charged for tandem transmission rates between the host and remote.

Finally, U S WEST maintains that Internet service provider ("ISP") traffic is not subject to reciprocal compensation. U S WEST is not paying access charges or reciprocal compensation on ISP traffic. In essence, U S WEST is getting a free ride at the expense of the CLECs. This matter must be put to rest at the state level, and U S WEST must be ordered to pay reciprocal compensation on ISP traffic.

F. Priorities and Phases

The CLECs have different business plans and needs. However, most CLECs have a desire to review the current rate for the loop network element and establish permanent deaveraged loop rates. Some CLECs have a desire to obtain line sharing. CLECs also have a desire to establish rates for the network platform, or UNE-P. Therefore, the Joint Commentors recommend that the Commission review the costs of the loop, including the high frequency portion of the loop, switching and transport in Phase 2. As part of Phase 2, the Commission should establish rates for the new network elements identified in the *UNE Remand Order* and the direct costs identified in the *Line Sharing Order.*

A third phase can review collocation rates, and a fourth phase the resale discount and any remaining costs issues.

II. CONCLUSION

The Joint Commentors have attempted to identify a broad range of issues that need to be addressed in the cost proceeding. However, it is not possible for the Joint Commentors or other parties to identify every issue that it may wish to raise. The

Commission must accord some flexibility to the parties to raise issues when they file their testimony.

Due to the numerous new issues that are before the Commission based on recent decisions and orders, more than two phases may be appropriate. There must also be a recognition that the law is dynamic. The schedule must adapt to such changes.

Respectfully submitted this 21st day of April, 2000.

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CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of the Recommendation for Phases and Corresponding Issues of AT&T, TCG Phoenix, MCI WorldCom and Sprint, Docket No. T-00000A-00-0194, were hand-delivered on this 21st day of April, 2000, to:

Arizona Corporation Commission
Docket Control - Utilities Division
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and a true and correct copy was sent via United States Mail, postage prepaid on this 21st day of April, 2000, to:

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